IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

ITA No. 389 of 2007

Date of Decision: 11.12.2007

Commissioner of Income Tax-III, Ludhiana

…Appellant

Versus

M/s Vanaik Spinning Mills Ltd., Ludhiana

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Vivek Sethi, Advocate,
for Mr. Sanjiv Bansal, Advocate,

for the appellant-revenue.

JUDGMENT

M.M. KUMAR, J.

This is revenue's appeal filed under Section 260A of the Income-tax Act, 1961 (for brevity, 'the Act'), challenging order dated 23.3.2006, passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'A', Chandigarh (for brevity, 'the Tribunal'), in I.T.A. No. 705/CHANDI/2005, in respect of assessment year 2002-03. It is claimed that following substantial question of law would emerge for determination of this Court:-

Whether on the facts and the circumstances of the case, the Tribunal was right in law in holding that Central

Sales Tax and Sales Tax be excluded from the total turnover of the assessee while computing deduction under Section 80HHC of the Income-tax Act, 1961?

After hearing learned counsel for the appellant-revenue and perusing the record we find that the matter is no longer *res integra*. A Division Bench of this Court has already dealt with the question of law raised in the instant appeal in detail in the case of **Commissioner of Income Tax v. Vardhman Polytex Ltd., (2006) 203 CTR (P&H) 397**. The Division Bench after interpreting relevant provisions of Section 80HHC of the Act and referring a number of judgments of various High Courts, has answered the question of law against the revenue and in favour of the assessee.

In view of above, following the same principle and precedent, the question of law raised in the instant appeal is answered against the revenue and in favour of the assessee being squarely covered by the Division Bench judgment of this Court in the case of Vardhman Polytex Ltd. (supra).

(M.M. KUMAR)
JUDGE

(RAKESH KUMAR JAIN)
JUDGE

December 11, 2007
Pkapoor